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February 1, 2021

By ECF

Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Surrender date adjourned to May 18, 2021 at 2:00 PM to the institution designated by the BOP and if non-designated than to the US Marshal for this district. Anticipating that, as of the new surrender date, pandemic conditions will continue and vaccinations will remain scarce, the Court does not anticipate extending the surrender date.

SO ORDERED.
2/1/2021


P. Kevin Castel
United States District Judge

United States v. Rojas,
19 Cr. 467 (PKC)

Your Honor:

I write with the consent of the government and Pretrial Services respectfully to request that the Court adjourn Jesus Rojas' surrender date, presently scheduled for February 16, 2021, by 90 days. The adjournment will, in all likelihood, allow Mr. Rojas an opportunity to be vaccinated against Covid-19 before he surrenders to a facility with an ongoing Covid-19 outbreak, which will provide safety benefits both to Mr. Rojas and to the entire prison population. Mr. Rojas has remained in perfect compliance with the terms of his release for two years; he appeared twice in court on days when he believed he might be remanded (his plea and his sentencing); and he has demonstrated that he is not a flight risk. He continues to work at a golf course in Pennsylvania to support his wife and three daughters, as he has for nearly two years now, and he is certainly not a danger. Allowing him an additional period to get vaccinated, so that he may return healthily to his family after his prison term over, is in the interests of justice.

As the Court is aware, Mr. Rojas – a longtime superintendent at an Upper East Side apartment building who stored drugs for others – suffers from high blood pressure and is obese. PSR ¶¶ 52, 54. Both of these are important Covid-19 risk factors.¹ Mr. Rojas is eligible to receive the Covid-19 vaccine in Pennsylvania, where he lives with his wife and three daughters, but has not yet been able to secure an appointment. He has registered for any available appointment with the Pennsylvania Department of Health, St. Luke's Hospital, Lehigh Valley Medical Center, Weis Market Pharmacy, CVS, and Rite

¹ Hanna Gaggin, *Hypertension, health inequities, and implications for Covid 19*, Harvard Health Publishing, Harvard Medical School (Nov. 18, 2020).

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Aid. Hopefully, he will be able to obtain a vaccine appointment soon, but it is far from promised that it will be in the next two weeks before his surrender date. Moreover, the vaccines presently available require two shots over the course of approximately 3-4 weeks, and there have been reports that failure to receive the second shot pose dangers not only to the patient, but also to the whole of society as partially vaccinated persons may be incubators for dangerous Covid-19 mutations.²

Mr. Rojas has 32 months ahead of him to serve in prison and he knows he must serve his time. Allowing him to be vaccinated before he begins the sentence is in the interests of justice. Covid-19 is extremely dangerous for anyone and especially for people with Mr. Rojas' medical conditions. Over thirty people in BOP custody have died from Covid-19 just since the start of this year – more than one person per day.³ At the facility where Mr. Rojas is to report, USP Lewisburg, there are currently 74 inmates and 25 staff who are Covid-19 positive.⁴ The risk to Mr. Rojas' health is not speculative, and adjourning the surrender date will not limit in any way the amount of time that he has to spend in jail. But it will increase the likelihood that he will return home to his family, who looks forward to having him back to help support them.

For the foregoing reasons, I respectfully request that the Court adjourn Mr. Rojas' surrender date by 90 days, until May 17, 2021. I have conferred with Assistant United States Attorney Sam Raymond, Pennsylvania Probation Officer JJ Dempsey (who supervises Mr. Rojas for Pretrial Services), and New York Pretrial Services Officer Ashley Cosme. They all consent to this request.⁵ Thank you for your consideration.

Respectfully submitted,

/s/ Benjamin Silverman
Benjamin Silverman

cc: AUSA Samuel Raymond (by ECF)
Jesus Rojas (by email)

² Catherine Schuster-Bruce, *Fauci is worried that delaying the second COVID-19 vaccine doses could worsen the spread of mutant virus variants*, Business insider (Jan. 26, 2021).

³ BOP Covid-19 press releases, https://www.bop.gov/resources/press_releases.jsp.

⁴ BOP Covid-19 webpage (last visited Feb. 1, 2021), *available at* www.bop.gov/coronavirus.

⁵ I have conferred with Jill R. Shellow, Esq., counsel for codefendant Prospero Gonzalez, and I understand that Ms. Shellow will be making the same request with respect to her client.